

into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Federal Government and other parties and are not identifiable to any particular contract.

(2) **INCLUSION IN FEDERAL ACQUISITION REGULATION.**—The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to subcontracts under a contract or subcontract for the procurement of commercial items. A provision of law properly included on the list pursuant to paragraph (3) does not apply to those subcontracts. This section does not render a provision of law not included on the list inapplicable to subcontracts under a contract for the procurement of commercial items.

(3) **PROVISIONS TO BE EXCLUDED FROM LIST.**—A provision of law described in subsection (d) shall be included on the list of inapplicable provisions of law required by paragraph (2) unless the Council makes a written determination that it would not be in the best interest of the Federal Government to exempt subcontracts under a contract for the procurement of commercial items from the applicability of the provision.

(4) **WAIVER NOT AUTHORIZED.**—This subsection does not authorize the waiver of the applicability of any provision of law with respect to any subcontract under a contract with a prime contractor reselling or distributing commercial items of another contractor without adding value.

(d) **COVERED LAW.**—A provision of law referred to in subsections (b)(2) and (c) is a provision of law that the Council determines sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government, except for a provision of law that—

- (1) provides for criminal or civil penalties; or
- (2) specifically refers to this section and provides that, notwithstanding this section, it shall be applicable to contracts for the procurement of commercial items.

(e) **PETITION.**—A person may petition the Administrator to take appropriate action when a provision of law described in subsection (d) is not included on the list of inapplicable provisions of law as required by subsection (b) or (c) and the Council has not made a written determination pursuant to subsection (b)(2) or (c)(3). The Administrator shall revise the Federal Acquisition Regulation to include the provision on the list of inapplicable provisions of law unless the Council makes a determination pursuant to subsection (b)(2) or (c)(3) within 60 days after the petition is received.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3723; Pub. L. 115-91, div. A, title VIII, §820, Dec. 12, 2017, 131 Stat. 1464.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1906(a)	no source.	Pub. L. 93-400, §34, as added
1906(b)-(e) ..	41:430.	Pub. L. 103-355, title VIII, §8003(a), Oct. 13, 1994, 108 Stat. 3388.

AMENDMENTS

2017—Subsec. (c)(1). Pub. L. 115-91 inserted at end “The term does not include agreements entered into by a contractor for the supply of commodities that are intended for use in the performance of multiple contracts with the Federal Government and other parties and are not identifiable to any particular contract.”

§ 1907. List of laws inapplicable to procurements of commercially available off-the-shelf items

(a) **INCLUSION IN FEDERAL ACQUISITION REGULATION.**—

(1) **IN GENERAL.**—The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to contracts for the procurement of commercially available off-the-shelf items. A provision of law properly included on the list pursuant to paragraph (2) does not apply to contracts for the procurement of commercially available off-the-shelf items. This section does not render a provision of law not included on the list inapplicable to contracts for the procurement of commercially available off-the-shelf items.

(2) **LAWS TO BE INCLUDED.**—A provision of law described in subsection (b) shall be included on the list of inapplicable provisions of law required by paragraph (1) unless the Administrator makes a written determination that it would not be in the best interest of the Federal Government to exempt contracts for the procurement of commercially available off-the-shelf items from the applicability of the provision.

(3) **OTHER AUTHORITIES OR RESPONSIBILITIES NOT AFFECTED.**—This section does not modify, supersede, impair, or restrict authorities or responsibilities under—

(A) section 15 of the Small Business Act (15 U.S.C. 644); or

(B) bid protest procedures developed under the authority of—

- (i) subchapter V of chapter 35 of title 31;
- (ii) section 2305(e) and (f) of title 10; or
- (iii) sections 3706 and 3707 of this title.

(b) **COVERED LAW.**—Except as provided in subsection (a)(3), a provision of law referred to in subsection (a)(1) is a provision of law that the Administrator determines imposes Federal Government-unique policies, procedures, requirements, or restrictions for the procurement of property or services on persons whom the Federal Government has awarded contracts for the procurement of commercially available off-the-shelf items, except for a provision of law that—

- (1) provides for criminal or civil penalties; or
- (2) specifically refers to this section and provides that, notwithstanding this section, it shall be applicable to contracts for the procurement of commercially available off-the-shelf items.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3724.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
1907	41:431(a), (b).	Pub. L. 93-400, §35(a), (b), as added Pub. L. 104-106, title XLII, §4203(a), Feb. 10, 1996, 110 Stat. 654; Pub. L. 105-85, title X, §1073(g)(2)(C), Nov. 18, 1997, 111 Stat. 1906.

§ 1908. Inflation adjustment of acquisition-related dollar thresholds

(a) DEFINITION.—In this section, the term “Council” has the meaning given that term in section 1301 of this title.

(b) APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the requirement for adjustment under subsection (c) applies to a dollar threshold that is specified in law as a factor in defining the scope of the applicability of a policy, procedure, requirement, or restriction provided in that law to the procurement of property or services by an executive agency, as the Council determines.

(2) EXCEPTIONS.—Subsection (c) does not apply to dollar thresholds—

(A) in chapter 67 of this title;

(B) in sections 3141 to 3144, 3146, and 3147 of title 40; or

(C) the United States Trade Representative establishes pursuant to title III of the Trade Agreements Act of 1979 (19 U.S.C. 2511 et seq.).

(3) RELATIONSHIP TO OTHER INFLATION ADJUSTMENT AUTHORITIES.—This section supersedes the applicability of other provisions of law that provide for the adjustment of a dollar threshold that is adjustable under this section.

(c) REQUIREMENT FOR PERIODIC ADJUSTMENT.—

(1) BASELINE CONSTANT DOLLAR VALUE.—For purposes of paragraph (2), the baseline constant dollar value for a dollar threshold—

(A) in effect on October 1, 2000, that was first specified in a law that took effect on or before October 1, 2000, is the October 1, 2000, constant dollar value of that dollar threshold; and

(B) specified in a law that takes effect after October 1, 2000, is the constant dollar value of that threshold as of the effective date of that dollar threshold pursuant to that law.

(2) ADJUSTMENT.—On October 1 of each year evenly divisible by 5, the Council shall adjust each acquisition-related dollar threshold provided by law, as described in subsection (b)(1), to the baseline constant dollar value of that threshold.

(3) EXCLUSIVE MEANS OF ADJUSTMENT.—A dollar threshold adjustable under this section shall be adjusted only as provided in this section.

(d) PUBLICATION.—The Council shall publish a notice of the adjusted dollar thresholds under this section in the Federal Register. The thresholds take effect on the date of publication and shall apply, in the case of the procurement of property or services by contract, to a contract, and any subcontract at any tier under the contract, in effect on that date without regard to the date of award of the contract or subcontract.¹

(e) CALCULATION.—An adjustment under this section shall be—

(1) calculated on the basis of changes in the Consumer Price Index for all-urban consumers

published monthly by the Secretary of Labor; and

(2) rounded, in the case of a dollar threshold that as calculated under paragraph (1) is—

(A) less than \$10,000, to the nearest \$500;

(B) not less than \$10,000, but less than \$100,000, to the nearest \$5,000;

(C) not less than \$100,000, but less than \$1,000,000, to the nearest \$50,000;

(D) not less than \$1,000,000, but less than \$10,000,000, to the nearest \$500,000;

(E) not less than \$10,000,000, but less than \$100,000,000, to the nearest \$5,000,000;

(F) not less than \$100,000,000, but less than \$1,000,000,000, to the nearest \$50,000,000; and

(G) \$1,000,000,000 or more, to the nearest \$500,000,000.

(f) PETITION FOR INCLUSION OF OMITTED THRESHOLD.—

(1) PETITION SUBMITTED TO ADMINISTRATOR.—A person may request adjustment of a dollar threshold adjustable under this section that is not included in a notice of adjustment published under subsection (d) by submitting a petition for adjustment to the Administrator.

(2) ACTIONS OF ADMINISTRATOR.—On receipt of a petition for adjustment of a dollar threshold under paragraph (1), the Administrator—

(A) shall determine, in writing, whether the dollar threshold is required to be adjusted under this section; and

(B) on determining that it should be adjusted, shall publish in the Federal Register a revised notice of the adjustment dollar thresholds under this section that includes the adjustment of the dollar threshold covered by the petition.

(3) EFFECTIVE DATE OF ADJUSTMENT BY PETITION.—The adjustment of a dollar threshold pursuant to a petition under this subsection takes effect on the date the revised notice adding the adjustment under paragraph (2)(B) is published.

(Pub. L. 111-350, §3, Jan. 4, 2011, 124 Stat. 3725; Pub. L. 114-92, div. A, title VIII, §817, Nov. 25, 2015, 129 Stat. 897; Pub. L. 115-91, div. A, title VIII, §821, Dec. 12, 2017, 131 Stat. 1464.)

HISTORICAL AND REVISION NOTES

<i>Revised Section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
1908(a)	no source.	
1908(b)(1)	41:431a(c).	Pub. L. 93-400, §35A, as added Pub. L. 108-375, title VIII, §807(a)(1), Oct. 28, 2004, 118 Stat. 2010.
1908(b)(2)	41:431a(d).	
1908(b)(3)	41:431a note.	Pub. L. 108-375, title VIII, §807(c)(1), Oct. 28, 2004, 118 Stat. 2011.
1908(c)(1), (2).	41:431a(a).	
1908(c)(3)	41:431a note.	Pub. L. 108-375, title VIII, §807(c)(2), Oct. 28, 2004, 118 Stat. 2011.
1908(d)	41:431a(b).	
1908(e)	41:431a(e).	
1908(f)	41:431a(f).	

In subsection (c)(3), the words “After the date of the enactment of this Act” are omitted as obsolete.

In subsection (e)(1), the words “Secretary of Labor” are substituted for “Department of Labor” because of 29:551.

REFERENCES IN TEXT

The Trade Agreements Act of 1979, referred to in subsec. (b)(2)(C), is Pub. L. 96-39, July 26, 1979, 93 Stat. 144.

¹ So in original.